

After reviewing the record and considering the arguments, the Appeals Board concludes the Award should be affirmed. The Board agrees with and adopts the findings and conclusions by the ALJ.

The record contains impairment ratings from three physicians. Dr. Morris opines that claimant has no impairment. Dr. J. Stanley Jones rates the impairment as 5 percent of the whole body. Dr. Murati rated the impairment as 10 percent to each extremity which he converted to 6 percent of the whole body for each extremity and combined for a rating of 12 percent of the whole body. Both Dr. Jones and Dr. Murati base their ratings on the Fourth Edition of the *AMA Guides to the Evaluation of Permanent Impairment*.

On appeal, respondent argues the ALJ should have given weight to the opinion of Dr. Morris that claimant has no functional impairment. Respondent argues that the ALJ mischaracterized the opinion by Dr. Morris when the ALJ described it as an opinion that claimant does not have carpal tunnel syndrome. According to respondent, the opinion is only an opinion that claimant has no impairment and is not an opinion that claimant does not have carpal tunnel syndrome. But the Board does not consider this distinction to be significant. The significant fact is that other physicians concluded claimant does have impairment and the ALJ found that conclusion more credible. The Board does also and, based on that conclusion, agrees it is reasonable not to give weight to a rating of 0 percent.

Respondent also suggests that the testimony of Dr. Jones establishes that the opinion of Dr. Murati's rating is really a rating for someone who has surgery for the bilateral carpal tunnel syndrome. The Board disagrees. Dr. Jones does testify that his rating is for someone who has not had surgery and he would rate as Dr. Murati has if claimant had undergone surgery. But in the end, Dr. Jones acknowledges that the *Guides* provide for the rating of 10 percent to the extremity for mild carpal tunnel syndrome, without regard to whether surgery was performed. Dr. Jones also agrees that claimant's carpal tunnel syndrome would be categorized as mild. The testimony of Dr. Jones supports Dr. Murati's rating rather than undermining it as respondent suggests.

Finally, respondent argues that the decision by the ALJ stands for the proposition that "Board Certified orthopedic surgeons are not qualified to provide ratings of impairment for conditions which fall within their field of specialty." The ALJ cites the fact Dr. Murati has a certification as an independent medical examiner to support relying on the opinion of Dr. Murati. Dr. Murati is not an orthopedic physician. But nowhere does the ALJ state, suggest, or imply that orthopedic surgeons are not qualified to rate orthopedic conditions. The ALJ found Dr. Murati's rating more credible in this case and the Board agrees.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Jon L. Frobish on May 7, 1999, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of August 1999.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Robert R. Lee, Wichita, KS
 Gregory D. Worth, Lenexa, KS
 Jon L. Frobish, Administrative Law Judge
 Philip S. Harness, Director